



PATENT APPLICATION
Customer Number: 22,852
Attorney Docket No. 07705.0002-03000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Arthur T. SANDS et al.) Group Art Unit: 1636
Application No.: 09/639,453) Examiner: Ramin Akhavan
Filed: August 15, 2000)
For: AN INDEXED LIBRARY OF CELLS)
CONTAINING GENOMIC)
MODIFICATIONS AND METHODS OF)
MAKING AND UTILIZING THE SAME)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TERMINAL DISCLAIMER

Sir:

Petitioner ("assignee") Lexicon Genetics Incorporated (Lexicon), duly organized under the laws of the State of Delaware and having its principal place of business at 4000 Research Forest Drive, The Woodlands, Texas, 77381, represents that it is the sole assignee of the entire right, title, and interest in and to the above-identified application, U.S. Patent Application No. 09/639,453, filed August 15, 2000, for AN INDEXED LIBRARY OF CELLS CONTAINING GENOMIC MODIFICATIONS AND METHODS OF MAKING AND UTILIZING THE SAME in the names of Arthur T. Sands , Glenn A. Friedrich, Brian Zambrowicz, and Allan Bradley, as indicated by an assignment duly recorded in the United States Patent and Trademark Office for parent

application, U.S. Patent Application No. 08/942,806, filed October 2, 1997 (now U.S. Patent No. 6,207,371 B1) at Reel 9215, Frame 0835.

Lexicon further represents that it is the sole assignee of the entire right, title, and interest in and to U.S. Patent No. 6,136,566 (which issued from U.S. Patent Application No. 08/726,867, filed October 4, 1996) for INDEXED LIBRARY OF CELLS CONTAINING GENOMIC MODIFICATIONS AND METHODS OF MAKING AND UTILIZING THE SAME in the names of Arthur Sands, Glenn Friedrich, Brian Zambrowicz, and Allan Bradley, as indicated by an assignment duly recorded in the United States Patent and Trademark Office at Reel 9215, Frame 0215.

To obviate a double patenting rejection, Lexicon hereby disclaims, under the provisions of 37 C.F.R. § 1.321, the terminal part of any patent granted on the above-identified application, U.S. Patent Application No. 09/639,453, which would extend beyond the expiration date of U.S. Patent No. 6,136,566 and hereby agrees that any patent so granted on U.S. Patent Application No. 09/639,453 shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to United States Patent No. 6,136,566, this agreement to run with any patent granted on U.S. Patent Application No. 09/639,453 and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, Lexicon does not disclaim the terminal part of any patent granted on U.S. Patent Application No. 09/639,453 that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of U.S. Patent No. 6,136,566, as presently shortened by any terminal disclaimer, in the event that U.S. Patent No. 6,136,566 expires for failure to pay a maintenance fee, is

held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or in part, is terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term, as presently shortened by any terminal disclaimer.

In accordance with the fee schedule set forth in 37 C.F.R. § 1.20(d), the required fee of \$110.00 is being filed with this disclaimer.

The undersigned is authorized to act on behalf of assignee Lexicon.

I hereby declare that all statements made of my own knowledge and belief are true and that all statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

LEXICON GENETICS INCORPORATED

Dated: 6-4-04

By: 

Lance K. Ishimoto, Esq.
Vice President, Intellectual Property